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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Implementation of Section 3(n)
and 332 of the Communications)

GN Docket No. 93-252

Regulatory Treatment of Mobile
Services)

To: The Commission

REPLY COMMENTS OF
ATLANTIC CELLULAR COMPANY, L.P.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Atlantic Cellular Company, L.P. ("Atlantic Cellular"), pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" of "Commission"), respectfully submits its reply to the comments filed in response to the Further Notice of Proposed Rule Making ("Further Notice") adopted by the Commission in the above-styled proceeding.¹

I. INTRODUCTION

Atlantic is an established wireless communications provider in a number of Commission licensed services, and has a particular expertise in mobile communications. Atlantic and its affiliates currently provide permanent cellular service in the Burlington, Vermont MSA and in California 11, Vermont 2 and New Hampshire 1 RSAs. In addition, Atlantic provides interim cellular service to the New Hampshire 2 RSA. The total population covered by Atlantic's cellular system is approximately 1,000,000. Atlantic's systems currently serve more than 20,000 subscribers.

¹ Further Notice of Proposed Rule Making (FCC 94-100), GN Docket No. 93-252, 9 FCC Rcd ____ (1994).

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Additionally, Atlantic has obtained experimental licenses to provide PCS service in Manchester, NH; Boston, MA; Providence, RI; San Francisco, CA; and San Jose, CA. Atlantic also is developing a wide-area digital SMR network in the states of Michigan, Ohio, and Indiana and is participating in several other wide-area digital SMR networks being developed throughout the United States. Accordingly, Atlantic is significantly involved in all areas of wireless communications which this proceeding will effect. Atlantic, therefore, takes this opportunity to respond to certain proposals set forth in the comments which may adversely effects Atlantic's ability to implement its wide-area digital SMR networks.

II. REPLY COMMENTS

Atlantic is concerned with the proposal made by Nextel Communications, Inc. ("Nextel"),² in connection with the creation of an Enhanced Specialized Mobile Radio ("ESMR") license by the re-allocation of 200 frequencies in the 806-821/851-865 MHz band ("800 MHz Band") exclusively for ESMR licensing. Atlantic does not oppose, for ESMR licensing, the use of Metropolitan Trading Areas ("MTA") as the identified geographic service area as proposed by Nextel. Nor is Atlantic necessarily opposed to the reallocation of a portion of the 800 MHz band for ESMR licensing as proposed by Nextel. However, Atlantic opposes any licensing proposal which narrowly restricts the persons which may apply for an ESMR license within an MTA.

² Comments of Nextel dated June 20, 1994.

Nextel proposes that the only persons eligible for licensing in this ESMR allocation would be "legitimate ESMR providers." It defines such persons as only those SMR licensees which have filed applications to convert existing constructed and operational SMR stations operating in an analog mode to operate in a digital mode with re-use of these licensed frequencies throughout a self-defined "footprint"³

Atlantic takes exception to Nextel's determination that Atlantic is not considered a "legitimate" ESMR licensee. Atlantic is an experienced wireless communications provider, and has the resources and financing to implement its wide-area, digital trunked SMR systems. Moreover, the Commission has granted Atlantic and its Channel Participants a five-year period in which to construct and place its digital network in operation. Atlantic has begun the development and planning of the network, and has expended a significant amount of monies to initiate its wide-area system. Therefore, Nextel's exclusion of Atlantic or similarly-situated ESMR licensees from eligibility for ESMR licensing would eliminate a number of "legitimate" ESMR providers.

Should Nextel's proposal be adopted, persons which are developing wide-area digital SMR networks in a manner different than that of Nextel would be placed at the same disadvantage which Nextel identifies as hurdles to providing competitive services with cellular providers. Atlantic, should the Nextel proposal be adopted, would not only

³ The "footprint" of such an ESMR system is determined by the location of each of the constructed, operational SMR stations participating in the wide-area filing, which are either held or managed by the ESMR applicant.

be placed at a competitive disadvantage to ESMR systems, but would also have the same disadvantages to competing with providers of cellular service.

Further, Atlantic opposes Nextel's proposal that frequencies be apportioned among eligible ESMR applicants by mobile loading ratios. Atlantic suggests that the Commission devise a method by which the eligible ESMR applicants would have an opportunity to negotiate with the other ESMR applicants to achieve a "settlement" on channel apportionment. Should such negotiations fail, then the Commission should utilize lotteries to license the "mutually exclusive" frequencies which are not subject to a "settlement." Again, Atlantic emphasizes that the eligible persons for ESMR licensing should include any licensee/applicant which has a wide-area digital SMR system proposal before the Commission prior to August 10, 1994.

Accordingly, Atlantic Cellular Company, L.P. respectfully requests that the Commission consider these proposal prior to adopting any regulatory changes to the Part 90 rules.

Respectfully submitted,

ATLANTIC CELLULAR COMPANY, L.P.

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